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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,533	01/23/2004	Christoph Braun	1406/181	9234

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JENKINS, WILSON & TAYLOR, P. A.
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DURHAM, NC 27707

EXAMINER

CHANG, JOSEPH

ART UNIT PAPER NUMBER

2817

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/763,533	BRAUN, CHRISTOPH	
	Examiner	Art Unit	
	Joseph Chang	2817	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 8, 10-12 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/4/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Claims 1-15 drawn to species 1 in the reply filed on 7/20/05 is acknowledged.

Upon examination, claims 8, 10-12 and 15 are not read on the elected species 1, and therefore claims 8, 10-12 and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/20/05.

Drawings

Figure 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-7, 13 and 14 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Miller, US Patent No. 6,812,876 B1.

Regarding claims 1 and 13, Miller discloses a device (Figure 1) and a method for digital pulse width modulation with:

- (a) a filter device (108) for filtering a filter input signal;
- (b) a quantization device (142) for quantizing a filter output signal of the filter device ;
- (c) a PWM mapper device (144) for generating a digital PWM signal from an output signal of the quantization device ; and
- (d) a feedback loop (150) for feeding back the digital PWM signal to a loop input signal (signal of 116) and for generating the filter input signal by subtraction (-a of 116).

Regarding claim 14, the method of modulation inherently includes performing a bandpass pulse width modulation because of intrinsic functionality of the circuitry of Miller.

Regarding claims 4-7, the functional recitations in the claims inherently present in the circuit of Miller because the prior art structure is the same as the one in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of O'Brien, US Patent No. 6,107,876.

Regarding claim 2, as noted above in the Claims rejections, Miller discloses a device as recited in the claims. However, Miller does not explicitly disclose an interpolation filter in the input stage.

As would have been well known in the art, for example, in O'Brien (Col. 4, lines 53-58), interpolation devices are to enhance the condition of the incoming signal of interest.

Accordingly, It would have been obvious to one of ordinary skill in the art at the time of the invention to add an interpolation device, such as an interpolation filter to the incoming input stage of the circuit of Miller for enhancing the condition of the incoming signal of interest, as taught by O'Brien, as an example.

Regarding claim 3, having a post-filter would have been obvious based on the output signal enhancement consideration.

Regarding claim 9, having a such value (a loop filter of the 4th order with a resolution of the quantization device of 4bits) would have been obvious based on the optimization value, and therefore such a modification would have been obvious to one of ordinary skill in the art.

Conclusion

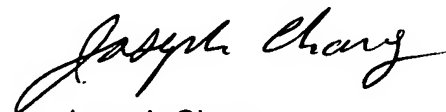
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kitamura discloses a digital sigma-delta modulation for audio amplifier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Chang whose telephone number is 571 272-1759. The examiner can normally be reached on Mon-Fri 0700-1730.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on (571) 272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph Chang
Patent Examiner
Art Unit 2817